



May 15, 2001

Mr. Iain Simpson
Assistant General Counsel
University of Houston System
E. Cullen Building, Suite 311
Houston, Texas 77204-2162

OR2001-2004

Dear Mr. Simpson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 147213.

The University of Houston System ("UH") received a request for the "RFP's that were submitted regarding [UH's] request for the Construction of Residential Life and Housing for your Student Housing 2000 Project." You have attached a copy of a letter from UH to William H. Mills, Jr. of University Housing Services, Inc. You assert that UH previously posted this item to the Office of the Attorney General. Our records do not reflect a previous receipt of this letter, or receipt of a request for decision from UH regarding the subject request for information. *See* Gov't Code § 552.301(b)(governmental body must submit request for decision to attorney general no later than ten business days following receipt of written request for information). Nor do our records indicate that you have provided information responsive to this request to this office for review. *See* Gov't Code § 552.301(e)(1)(D)(governmental body must submit requested information, or a representative sample thereof, to attorney general no later than fifteen business days following receipt of written request for information).

UH's failure to comply with the requirements of section 552.301 results in the presumption that the requested information is subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. Gov't Code § 552.302. A compelling reason is demonstrated where information is made confidential by other law, or where third party interests are at issue. Open Record Decision No. 150 (1977).

You indicate that the request implicates the proprietary rights of third parties, and that you notified those parties of the request for information. *See* Gov't Code § 552.305 (governmental body to notify persons whose proprietary information is requested not later

than the tenth business day after receipt of written request for the information). You also indicate that none of the notified parties responded to the request. Our records do not reflect that any third party submitted comment to this office in response to your notice.

As this office has neither the responsive information, nor any comments that would support an exception to disclosure for that information, we conclude that the requested information must be released. *See* Open Records Decision Nos. 661 at 6 (1999) (to prevent disclosure of commercial or financial information, party must show by specific factual evidence that release of information would cause substantial competitive harm), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990).

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

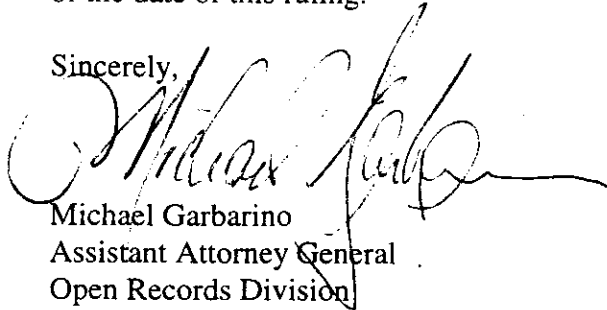
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael Garbarino
Assistant Attorney General
Open Records Division

MG/seg

Ref: ID# 147213

cc: Mr. Ben Araman
JPI Campus Quarters
600 East Las Colinas Boulevard, Suite 1400
Irving, Texas 75039

Mr. William H. Mills, Jr.
President
University Housing Services, Inc.
1325 Snell Isle Boulevard, Suite 201
St. Petersburg, Florida 33704

Mr. James L. Goettee, Jr.
City Partner
Trammell Crow Residential
10333 Richmond Avenue, Suite 400
Houston, Texas 77042

Mr. Cecil M. Phillips
President
Place Collegiate Properties Co.
101 Marietta Street NW, Suite 1050
Atlanta, Georgia 30303-2726

Mr. Wayne F. Sramek
President
Century Development
Two Post Oak Central
1980 Post Oak Boulevard, Suite 1200
Houston, Texas 77056-3808

Mr. R. Ryan Holmes
Executive Vice President
Ambling Companies
P.O. Box 3039
Valdosta, Georgia 31601

Mr. William C. Bayless, Jr.
Executive Vice President
American Campus Communities
701 Brazos, Suite 700
Austin, Texas 78701

Mr. James M. Goodson, III
Executive Vice President
Capstone Development
431 Office Park Drive
Birmingham, Alabama 35223